

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF MISSISSIPPI
GREENVILLE DIVISION**

BRENDA J. COOPER, et al.

PLAINTIFFS

V.

NO. 4:16-CV-52-DMB-JMV

MERITOR, INC., et al.

DEFENDANTS

ORDER

On August 15, 2018, the defendants in this environmental litigation, citing the high-profile nature of this case, filed a motion asking the Court to “(1) empanel a larger-than-normal venire, (2) exclude Grenada County from the venire, (3) use a pre-venire jury questionnaire, and (4) provide each party with additional peremptory strikes.” Doc. #778 at 2. Additionally, the motion seeks a district-wide venire “[i]f the Court does not believe that these tools will be successful in empaneling an impartial jury.” *Id.* The plaintiffs did not respond to the motion or to the memoranda the defendants filed in support.¹

As an initial matter, the Court notes that pre-venire exclusion of Grenada County residents is inappropriate. *See* 28 U.S.C. § 1863(b)(3) (district jury plan must “ensure that each county ... within the district ... is substantially proportionally represented”). Accordingly, to the extent the motion seeks such relief, it will be denied. However, given the publicity associated with this litigation, the Court concludes that the remaining safeguards sought by the defendants are appropriate and necessary for ensuring an impartial jury. Accordingly:

¹ The defendants filed an initial memorandum and later sought, and received, leave to file a supplemental memorandum. *See* Doc. #854. The order granting leave to supplement provided the plaintiffs an opportunity to respond. *Id.*

1. The defendants' motion to protect jury selection [778] is **GRANTED in Part and DENIED in Part**.
2. The Court will draw a district-wide venire of at least three times the normal size.
3. The Court will utilize a pre-venire jury questionnaire.²
4. The parties will be entitled to additional peremptory strikes, with the precise number to be determined at a later date.³

SO ORDERED, this 28th day of March, 2019.

/s/Debra M. Brown
UNITED STATES DISTRICT JUDGE

² The parties must submit a joint proposed jury questionnaire no later than five (5) weeks before trial.

³ The defendants did not seek a specific number of peremptory strikes in their motion.